

Thursday, February 26, 2015

The following action minutes are listed as they were acted upon by the Planning Commission and as listed on the agenda for the Regular Meeting of 9:00 AM, together with the maps and staff reports attached thereto and incorporated therein by reference.

Hearings are advertised for 9:00 a.m. Hearings generally proceed in the order listed, unless changed by the Planning Commission at the meeting.

ROLL CALL:

PRESENT: Jim Irving; Kenneth Topping; Eric Meyer; James Harrison; and Don Campbell

ABSENT: None

PUBLIC COMMENT PERIOD

1. Members of the public wishing to address the Commission on matters other than scheduled items may do so at this time, when recognized by the Chairman. Presentations are limited to three minutes per individual.

Eric Greening: speaks.

PLANNING STAFF UPDATES

2. This is the time set for Planning Staff updates.
Bill Robeson, staff: addresses Mr. Greening's public comment. Updates Commissioners on their near term schedule.

Don Campbell: asks if the Cal Flats Solar proposal can be moved to April 9, 2015 since two commissioners will be absent with Mr. Robeson responding.

CONSENT AGENDA:

3. January 22, 2015 Draft Planning Commission minutes

Eric Meyer: pulls Consent Items 3 and 5 for separate votes to indicate corrections to the minutes. References Pg. 4-7 (January 29, 2015 draft minutes Item 4) to correct adjournment time from 11:11 PM, to 11:11 AM. References Pg. 5-7, (February 5, 2015 draft minutes Item 5 Las Pilitas Resources, LLC) to delete failed motion due to lack of second for reasons of clarity due to Commissioner Irving having withdrawn motion. References Pg. 5-8 (February 5, 2015 draft minutes Item 5 Las Pilitas Resources, LLC) -would like the motion for approval of proposal to have a note explaining why the motion failed on a 3-2 vote.

Ken Topping: asks Ms. Hedges if she has noted the corrections to be made with Ms. Hedges stating yes.

Thereafter, on motion of Jim Irving, seconded by Eric Meyer, the Commission approves Consent Item 3.

Motion by: Jim Irving

Second by: Eric Meyer

COMMISSIONERS:	AYES:	NOES:	ABSTAIN:	RECUSE:
Harrison, James	x			
Irving, Jim	x			
Campbell, Don	x			
Meyer, Eric	x			
Topping, Ken	x			

4. January 29, 2015 Draft Planning Commission minutes

Thereafter, on motion of Eric Meyer, seconded by Ken Topping, the Commission approves Consent Item 4 with noted correction and with Commissioner Irving abstaining from the vote due to his absence on January 29, 2015.

Motion by: Eric Meyer

Second by: Ken Topping

COMMISSIONERS:	AYES:	NOES:	ABSTAIN:	RECUSE:
Harrison, James	x			
Irving, Jim			x	
Campbell, Don	x			
Meyer, Eric	x			
Topping, Ken	x			

5. February 5, 2015 Draft Planning Commission minutes

Thereafter, on motion of Jim Irving, seconded by Eric Meyer, the Commission approves Consent Item 5 with noted corrections.

Motion by: Jim Irving

Second by: Eric Meyer

COMMISSIONERS:	AYES:	NOES:	ABSTAIN:	RECUSE:
Harrison, James	x			
Irving, Jim	x			
Campbell, Don	x			
Meyer, Eric	x			
Topping, Ken	x			

6. Determination of conformity with the General Plan for the vacation of a portion of Avocado Avenue between Tefft and Dana Street in the community of Nipomo. The request is in response to an application submitted Hermreck Properties, LLC, owners of adjacent property at the northwest corner of Avocado Avenue and East Dana Street. The street is located in the Residential Multi-Family land use category within the community of Nipomo in the South County Inland Sub Area of the South County Planning Area.

County File Number: DTM2014-00004
 Supervisorial District: 4
 Project Manager: Megan Martin

Assessor Parcel Number: N/A
 Date Accepted: January 21, 2015
 Recommendation: Receive and File

Jim Irving: asks if it is normal to have a utility be used for pedestrian access, in terms of flood control. Would like to see an aerial of what is being vacated

Jim Harrison: explains location and purpose of request.

Fred Andrews, Public Works: explains abandonment and shows over head aerials to depict request.

Thereafter, on motion of Jim Irving, seconded by Eric Meyer, the Commission approves Consent Item 6.

Motion by: Jim Irving

Second by: Eric Meyer

COMMISSIONERS:	AYES:	NOES:	ABSTAIN:	RECUSE:
Harrison, James	x			
Irving, Jim	x			
Campbell, Don	x			
Meyer, Eric	x			
Topping, Ken	x			

HEARINGS: (Advertised for 9:00 a.m.)

7. Continued hearing to consider a request by NINER WINE ESTATES, LLC to allow for a modification of their previously approved Conditional Use Permit, DRC2013-00017, to allow the following: a. Use of a portion of the existing hospitality building as a 3,400 square foot (sf) restaurant (limited food service facility); b. Modification of the ordinance standard limiting a restaurant to 800 sf to allow 3,400 sf restaurant; c. Modification of the ordinance standard to allow the restaurant to remain open until 9 p.m., 7 days per week, hours beyond the tasting room hours of 10 a.m. to 5 p.m. The existing uses, including a 60,000 sf wine production facility, a 4,926 sf boutique winery, a 8,840 sf hospitality building (that included a 2,000 sf commercial kitchen), and 18 annual special events (one event with up to 300 guests, three events with up to 200 guests, four events with up to 100 guests, and 10 events with up to 75 guests), would continue. The proposed project will not result in any site disturbance on the 142 acre parcel. The project is located approximately 1,300 feet northwest of Highway 46. The site is approximately one mile west of the community of Templeton. The site is in the North County Planning Area, Adelaida Sub Area. A Class 3 categorical exemption was issued for this project. CONTINUED FROM 1/29/15 & 2/5/15 PC.

County File Number: DRC2013-00117
 Supervisorial District: 1
 Project Manager: Holly Phipps

Assessor Parcel Number: 040-111-031
 Date Accepted: August 5, 2014
 Recommendation: Approval

Thereafter, on motion of Jim Irving, seconded by Don Campbell, the Commission continues this item to March 26, 2015.

Motion by: Jim Irving

Second by: Don Campbell

COMMISSIONERS:	AYES:	NOES:	ABSTAIN:	RECUSE:
Harrison, James	x			
Irving, Jim	x			
Campbell, Don	x			
Meyer, Eric	x			
Topping, Ken	x			

8. CONTINUED HEARING to consider a request by the COUNTY OF SAN LUIS OBISPO to amend portions of the following documents in order to encourage the development of certain renewable energy projects in the most suitable locations in unincorporated inland areas of the county through a Renewable Energy Streamlining Program (RESP): 1) Framework for Planning (Inland), Part I of the Land Use and Circulations Elements (LUCE) of the County General Plan; 2) the Carrizo, North County, San Luis Obispo, and South County Area Plans, Part II of the LUCE; 3) the Official Maps, Part IV of the LUCE; 4) the Conservation and Open Space Element of the County General Plan; 5) the Land Use Ordinance, Title 22 of the County Code; and 6) the Rules of Procedure to Implement the California Land Conservation Act of 1965.

County File Number: LRP2014-00015

Assessor Parcel Number(s): N/A

Supervisory District: All

Authorized for Processing: July 9, 2013

Project Manager: James Caruso

Recommendation: Approval

James Caruso, Project Manager: provides a Power Point presentation of the issues which are going to be discussed today.

Jim Irving: would like the 19 questions addressed in the supplemental staff report and then continue on with Pg. 16.

Commissioners: begin deliberating questions 1 and 2 on the supplemental staff report.

Commissioners: have no comments on question 4 in term of mega watts goals.

Jim Irving: asks what the names for Table 2 are as they are missing with Mr. Caruso responding.

Commissioners: discuss question 5.

Ken Topping: begins with question 6 regarding constraints and performance standards - especially in terms of application to tier standards with Mr. Caruso responding.

Eric Meyer: would like the term "grubbing" defined with Mr. Caruso providing definitions.

Eric Meyer: would like further definition of "grubbing". Commissioners Irving and Meyer: each would like language further defined with Mr. Caruso providing reasoning for use. Eric Meyer: reads into the record the definition of "grubbing" from Google.

Commissioners: move on to question 7.

Jim Irving: discusses the definition of "highly productive" in terms of renewable energy such as solar on range land with Mr. Caruso responding.

Commissioners: have no comments on question 7.

Eric Meyer: reads from Pg. 8 of 64 in terms of buffers, with Mr. Caruso explaining this refers to large ground mounted facilities.

Ken Topping: asks if we will be going through the Land Use Ordinance (LUO) revisions today. Explains why the Commission is breaking down the aspects in this subject and provides a timeline for questioning.

Commissioners: discuss questions 8 and 9, in terms noticing and public hearings.

Commissioners: begin discussing questions 9 and 10 with staff responding.

Jim Irving: referring to question 12, would like to know about noticing and contacting advisory groups with Mr. Caruso responding.

Commissioners: begin review of questions 11 and 12.

Ken Topping: asks about postings to the website of zoning maps for the RESP in terms of not having gone to the Board of Supervisors (BOS) beforehand with the RESP.

Trevor Keith, staff: explains department policy on availability of maps.

Commissioners: begin discussion of question 13, 14, and 15.

James Caruso, Project Manager: addresses answer to question 15 in terms of how long it takes to process site plan reviews and minor use permits.

Commissioners; move on to question 16 and 17.

Jim Irving: referring to question 18, noticing -would like the noticing process explained step by step, especially in terms of appeals should a recipient of a notice not agree with the application, how would they appeal, with Mr. Caruso responding.

Commissioners: end questions discussion with question 18.

James Caruso, Project Manager: addresses "Alternatives" to the RESP on Pg. 13 of the supplemental staff report.

Commissioners: begin discussing Attachment 4, Pg. 16 of 64 from the supplemental staff report.

Jim Irving: comments on ratios -suggests a 1 to 1 ratio with agreement by all commissioners for item b. (1). Moves on to Pg. 16, item c. in terms of the Ag. Dept. valuating criteria relating to the intensity and suitability.

Commissioners: deliberate item c.

Commissioners and staff: deliberate identifying antiquated subdivisions.

Commissioners: continue discussing Pg. 16. d. in terms of the Williamson Act preserve status with Mr. Caruso responding.

Commissioners: begin review of Pg. 17, number 10. -Screening Requirements.

Ken Topping: would like the definition of "maximum extent feasible" further explained with Mr. Caruso clarifying.

Ken Topping: opens Public Comment.

Eric Greening -comments on impact summary tables; Marti Rutherford, Bill Wycott (Native Plant Society); Tim LaSalle; and David Chipping (Center for Natural Biological Resources): speak.

Jim Irving: discusses Mr. LaSalle's letter and asks about range lands in terms of dusting with compost. Comments on perennials and how this relates to a carbon sink with Mr. LaSalle responding. Comments on cover crops in terms of planting being valuable instead of leaving the land fallow with Mr. LaSalle responding.

Commissioners: begin with Pg. 17 of 64, Section 11.

James Caruso, Project Manager: comments on Section 14 and moves on to Section 15.

Eric Meyer: referring to Section 14 provides suggested language for the last sentence to add "....or 25 percent of the area of the open space parcel" with Mr. Caruso responding.

James Caruso, Project Manager: begins with Chapter 22.32 Generating Facilities and explains changes made.

Jim Irving: referencing Pg. 19, 2. b. -would like clarification of requirement of a land use permit for certain criteria in terms of accessory facilities with Ms. Jennifer Venema responding.

James Caruso, Project Manager: further provides reasoning for accessory renewable energy facility, with Mr. Irving suggesting number 7 should be deleted with Mr. Caruso referencing number 8 as an explanation.

Jim Irving: suggests ordering these points in a more logical manner.

James Caruso, Project Manager: continues on with Section 19, permit requirements for non renewable energy generating facilities.

Jim Irving: suggests cross referencing Section 27 in Land Use Ordinance (LUO) with Mr. Caruso agreeing.

Eric Meyer: discusses style and formatting of land use ordinance documents in terms of

section breaks between pages with Mr. Caruso responding this section will be formatted with chapter breaks.

Jim Irving: referring to Table on Pg. 21, comments on tiers and reasoning for changes made with Mr. Caruso responding.

James Caruso, Project Manager: changes Pg. 22 of 64 (7) 1. change 20 acres to 10 acres as well as Pg. 23, and states this change will be incorporated throughout the document as per the Agricultural Preserve Review Committee (APRC) recommendation.

Eric Meyer: suggests the Project Manager call out a page number to review rather than going through page by page with all commissioners in agreement.

Commissioners: begin by referring to Pg. 28 in reference to bonding with Mr. Caruso responding.

James Caruso, Project Manager: continues with Pg. 30.

Trevor Keith, staff: explains the process for Biological Resource Studies for Minor Use Permits (MUPS) and for Conditional Use Permits (CUPS). Further explains botanical studies in terms of catching species during bloom and how they are tracked.

Jim Irving: discusses Kit Fox mapping area boundaries and how mapping is revised to current standards with Mr. Keith responding.

Don Campbell: refers to Pg. 30 and comments on abandonment.

James Caruso, Project Manager: moves on to Pg. 31, 32, 33 and 34.

Eric Meyer: referencing Pg. 34 in terms of minimum setbacks -would like further delineation to add "ground mounted" in order to avoid confusion with Mr. Caruso agreeing to this suggestion.

James Caruso, Project Manager; moves on to Pg. 36, 37 noting ratios will be changed from 3-1, to 1-1. Moves on to Pg. 38, 39, 40, and 41. Explains Fish & Game inclusion of hollow vertical structures. No comments on any pages up to Pg. 46. Discusses Pg. 46, limited land uses. Moves through Pages, 47-58. Sums up where the performance standards list is and refers to Pg. 5, Item 6.

Ken Topping: would like to know how the department will communicate this program to the public and suggests cross referencing the ordinance for people to see what self enforcing aspects are built into the program with Mr. Caruso responding and explaining the process.

James Caruso, Project Manager: states cross references to the ordinance will be included into the guide. Continues on with Attachment 3 changes and corrections.

Terry Wahler, staff: explains Attachment 5, Exhibit E and changes to the Rules of Procedure.

Commissioners: discuss 40 acre minimum parcel size in Williamson Act.

Terry Wahler, staff: reports differences in language referencing energy facilities to be incorporated into the land use ordinance (LUO). Moves on to the amendments to the rules of procedure, Exhibit E. Discusses the Assessor's Office wish to monitor lease site values included as part of the review process application.

Jim Irving: references Appendix E, letters e, f, g, and h in terms of renewable energy facility (REF) minimum of 320 acres. Provides scenario using i. and k. in reference to requirement of a Minor Use Permit (MUP). Feels 10 acres will not interfere with prime soils.

Terry Wahler, staff: explains current qualification standards in terms of non renewal process for preserve status and the APRC recommendations to the Planning Commission.

Jim Irving: continues to feel a 10 acre streamlined facility on a 320 acre parcel is unnecessary.

Terry Wahler, staff: provides information on how the implications of the RESP to Williamson Act properties effect property tax assessments.

James Caruso, Project Manager: Discusses proposed revisions and notification to property owners beginning with noticing the surrounding 300 feet of the parcel. Reads into the record requirement by the applicant to submit a notice of application. Explains definition and criteria for tiers 1, 2, and 3.

Commissioners: reach consensus for Tiers 1 and 2 reduction to a 40 acre cap for streamlining purposes.

James Caruso, Project Manager: continues on with Attachment 4, number 2. Biological Reports. Discusses language to be added such as "....and other organizations e.g. Ca. Native Plant Society" as an example of a referring agency.

Commissioners: would like a time limit set on review/response of a biological report with Mr. Caruso stating there is a 30 day limit.

Ken Topping: would like to know if other Commissioners have other revisions with Commissioners nodding in the affirmative.

Eric Meyer: would like a definition that better describes "grubbing" with Commissioners providing different scenarios for grubbing.

Whitney McDonald, County Counsel: reports the Civil Code states that cities and counties are not allowed to require conservation easements as conditions of approval and this proposed ordinance language uses the phrase 'conservation easement'. This is typically interpreted as requiring an open space easement which is something that can be conditioned for a project to provide. The Open Space Easement Act allows the county to do. States staff will change the phrase 'Conservation Easement' for 'Open Space easement' so we do not violate the Civil Code.

Jim Irving: verifies counsel is referring to the 1-1 ratio and provides a scenario for an open space easement requirement for a 1-1 acreage basis. Would like clarification on how restrictive an open space easement is in terms of the type of uses that are allowed, with Ms.

McDonald providing reasoning.

Commissioners: would like this alternative choice of a conservation easement written into the Land Use Ordinance (LUO).

Commissioners: deliberate going through the EIR to address public comments made about the Commission being unable to certify the EIR.

Ken Topping: has concerns and would like to see the language as suggested and the maps and would like today's decision to be tentative.

Trevor Keith, staff: states that suggestion would move the Board of Supervisors adoption out to May. Suggests the meeting go into recess to allow staff to incorporate changes and revisions to allow the Commission to review the document.

Ken Topping: recesses the meeting to allow staff time to work on changes to the document.

James Caruso, Project Manager: overviews language developed for Attachment 4, Exhibit D, Section 22.62.040 Site Plan Review new 4. i. and ii. Explains there are no longer Tiers 3 and 4 and shows language changes for this.

Whitney McDonald, County Counsel: overviews legal standard for recommendation of certification of the EIR when forwarded to the Board of Supervisors (BOS). Explains substantial evidence of conclusion. States it is up to the Commission and BOS whether the EIR sufficiently analyzes biological impacts.

Commissioners: begin deliberating public comment in terms of whether the EIR has analyzed biological and other impacts.

Whitney McDonald, County Counsel: discusses the Commission's recommendation to the Board of Supervisors in terms of the test for potential increases to impacting resources. States the Commission has already made changes to the document which will reduce this potential.

Jim Irving: would like to know if the Statement Of Over Riding Considerations reflects the recommendation with Mr. Bob Stark responding.

Commissioners: agree to recommend certification of the EIR.

James Caruso, Project Manager: over views changes made today in regards to the conservation easements and open space discussions.

Jim Irving: referencing Attachment 4, Exhibit D, regarding language for open space easements being conservation easements in terms of interpretation of such.

James Caruso, Project Manager: reads into the record new 4. i. ii for Attachment 4, Exhibit D.

Jim Irving: discusses the Findings of Fact in terms of the changes made at today's hearing.

Whitney McDonald, County Counsel: explains procedurally how to modify the Findings of Fact and the Statement of Over Riding Consideration.

Commissioners: agree to let staff make the changes to the Findings of Fact after the hearing and before the Board of Supervisors (BOS) hearing.

Commissioners: commiserate on the decision process for this item. Deliberate a recommendation to the Board of Supervisors (BOS) with regard to sequestration and car to carbon, compost dusting as explained during public comment by Mr. LaSalle's and by Mr. Lasalle's letter.

Thereafter, on motion of Eric Meyer, seconded by Ken Topping, The Commission recommends the Board of Supervisors certification of the EIR and approval of General Plan Amendment and Ordinance Amendment LRP2014-00015 as shown in Exhibits LRP2014-00015:C, LRP2014-00015:D and LRP2014-00015:E based on the findings listed in Exhibits LRP2014-00015:A and LRP2014-00015:B, to be modified to reflect the actions and discussion of the Planning Commission during the course of this hearing.

Motion by: Eric Meyer

Second by: Ken Topping

COMISSIONERS:	AYES:	NOES:	ABSTAIN:	RECUSE:
Harrison, James	x			
Irving, Jim	x			
Campbell, Don	x			
Meyer, Eric	x			
Topping, Ken	x			

Commissioners: discuss language for a motion to recommend sequestration process to Board of Supervisors.

Motion by: Don Campbell

Second by: Eric Meyer

COMISSIONERS:	AYES:	NOES:	ABSTAIN:	RECUSE:
Harrison, James	x			
Irving, Jim	x			
Campbell, Don	x			
Meyer, Eric	x			
Topping, Ken	x	x		

The Commission authorizes Chairman Topping to work with Trevor Keith and James Caruso to work together to develop a recommendation to the Board of Supervisors requesting the Planning and Building Department research Carbon Sequestration as a process which should be vigorously pursued through the agricultural community.

Motion by: Don Campbell

Second by: Jim Irving

COMISSIONERS:	AYES:	NOES:	ABSTAIN:	RECUSE:
Harrison, James	x			

Irving, Jim	x			
Campbell, Don	x			
Meyer, Eric	x			
Topping, Ken	x			

Thereafter, on motion of Don Campbell, seconded by Jim Irving, the Commission accepts all correspondence and testimony entered into the record.

Motion by: Don Campbell

Second by: Jim Irving

COMMISSIONERS:	AYES:	NOES:	ABSTAIN:	RECUSE:
Harrison, James	x			
Irving, Jim	x			
Campbell, Don	x			
Meyer, Eric	x			
Topping, Ken	x			

Thereafter, on motion of Don Campbell, seconded by Jim Irving the Commission adjourns to the next meeting of the Planning Commission on March 26, 2015.

Respectfully submitted,
 Ramona Hedges, Secretary
 San Luis Obispo County Planning Commission

Minutes approved at the 04/09/15 Planning Commission meeting.